

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES MURPHY,
Plaintiff,
-v-
TINA KIM GALLERY LLC,
Defendant.

21-CV-10478 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff James Murphy brings this action against Tina Kim Gallery, LLC, alleging violations of the Americans with Disabilities Act, 42 U.S.C. §§ 12181 *et seq.*, and New York law.

This action was filed on December 8, 2021 (Dkt. No. 1). The docket reflects that Murphy has not served the defendant with the complaint. On June 17, 2022, the Court directed Plaintiff to advise the Court in writing why he has failed to serve the summons and complaint on the defendant, or, if the defendant had been served, when and in what manner such service was made. (Dkt. No. 5). The Court warned Plaintiff that if no written communication was received by July 7, 2022, the Court would dismiss the case. The Court has not received any such communication.

Rule 4(m) of the Federal Rules of Civil Procedure requires a defendant to be served with the summons and complaint within 90 days after the complaint is filed. Rule 4(m) requires that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

Accordingly, in light Plaintiff's failure to serve the defendant and to respond to this Court's Order, this case is DISMISSED without prejudice. The Clerk is directed to close the case.

SO ORDERED.

Dated: October 7, 2022
New York, New York



J. PAUL OETKEN
United States District Judge